



DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF REVENUE SERVICES, INCOME/ESTATE TAX DIVISION

Rule No. 324 (18-125 CMR 324)

CONNECTME TAX REIMBURSEMENTS

SUMMARY: This rule provides guidance for taxpayers on how to qualify and apply for reimbursement of Maine sales and use taxes under 36 M.R.S.A. § 2018.

Outline of Contents:

- 1 Glossary
- 2 Qualification Requirements
- 3 Application for Certificate of Qualification
- 4 Application for Reimbursement

SECTION 1. GLOSSARY

1. Advanced Communications Technology Infrastructure means any communications technology infrastructure or infrastructure improvement that expands the deployment of, or improves the quality of, broadband availability or wireless service coverage. *See* 35-A M.R.S.A. § 9202(1).

2. Application Deadline means the third anniversary of the Sale date of the Machinery and Equipment for which the Authority issued a Certificate of Qualification. If the Certificate of Qualification covers Machinery and Equipment purchased on multiple Sale dates, the Application Deadline is the earliest such Sale date. *See* 36 M.R.S.A. § 2018(3).

3. Authority means the ConnectME Authority established in 35-A M.R.S.A. § 9203. *See* 35-A M.R.S.A. § 9202(2).

4. Certificate of Qualification means the certificate issued to an applicant by the Authority in accordance with the requirements of section 3 of this rule as a prerequisite to applying for tax reimbursement under section 4 of this rule.

5. MRS means Maine Revenue Services.

6. Machinery and Equipment means machinery, equipment and parts and attachments for machinery and equipment, but excludes foundations for machinery and equipment and special purpose buildings used to house or support machinery and equipment. *See* 36 M.R.S.A. § 1752(7-B).

7. Person means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit.

8. Primarily, when used in relation to Machinery and Equipment, means more than 50% of the time during the period that begins on the date on which the Machinery and Equipment is first placed in service by the purchaser and ends 2 years from that date or at the time that the machinery or equipment is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

9. Qualifying ConnectME Zone means a geographic area that the Authority has determined is an unserved or underserved area with respect to Advanced Communications

Technology Infrastructure at the time the Sale of Machinery and Equipment to the applicant occurs. See 35-A M.R.S.A. §§ 9202(5), 9204(1) and 9204(2)(B).

10. Sale means the same as defined in 36 M.R.S.A. § 1752(13).

11. State Fiscal Year means the fiscal year of the State of Maine, which is a 12 month period that commences each July 1 and ends on each June 30.

SECTION 2. QUALIFICATION REQUIREMENTS

A Person that pays Maine sales or use taxes in connection with the purchase of Machinery and Equipment for use Primarily in the development of an Advanced Communications Technology Infrastructure in a Qualifying ConnectME zone is eligible to apply for reimbursement of those taxes provided that:

1. the person receives a Certificate of Qualification from the Authority (see section 3 of this rule); and

2. the person timely applies to MRS for reimbursement of those taxes (see section 4 of this rule).

SECTION 3. APPLICATION FOR CERTIFICATE OF QUALIFICATION

1. Application Procedure. Application for a Certificate of Qualification is undertaken using a form to be developed and provided by the Authority. The applicant should complete and send it to the Authority at the address listed on the form and include any information necessary to demonstrate that the applicant purchased Machinery and Equipment which is being used Primarily in the development of an Advanced Communications Technology Infrastructure in a Qualifying ConnectME zone, including the purchase price of and Maine sales/use tax paid with respect to that Machinery and Equipment. The applicant must sign the application under penalty of perjury. An application by a corporation or other business entity must be signed by a duly authorized officer of that entity.

2. Timing of Purchases. In order to qualify for tax reimbursement, the purchases must have a date of Sale no earlier than July 1, 2007 and no later than January 30, 2009. The applicant must retain all records pertaining to the purchases in question for at least 6 years.

3. Annual Reimbursement Limit.

A. Limit. The Authority may not issue Certificates of Qualification for reimbursement of Maine sales/use tax in an amount exceeding \$500,000 in the aggregate in any State Fiscal Year. If Certificates of Qualification in a State Fiscal Year are issued for an aggregate amount of less than \$500,000 in reimbursements, the difference may not be added to the reimbursement limit in a subsequent State Fiscal Year. Similarly, reimbursement attributable to a Certificate of Qualification that is granted but for which reimbursement is not timely requested from MRS may not be added back to the annual reimbursement limit for any State Fiscal Year. The Authority may issue a Certificate of Qualification only with respect to Maine sales/use tax actually paid by the applicant with respect to the qualifying Machinery and Equipment.

B. Allocation. The \$500,000 cap shall be allocated to qualifying applicants in the order that qualifying applications are received by the Authority. For these purposes, an application is considered as received by the Authority on the day that it is deemed by the

Authority to be complete. If a qualifying application requests more reimbursement than is available for that State Fiscal Year, as of the date of receipt, the excess amount of qualifying reimbursement shall be carried over and eligible for a Certificate of Qualification in the next State Fiscal Year. If more than one qualifying application is received on the same day by the Authority and the qualifying applications request, in the aggregate, more reimbursement than is available for that State Fiscal Year as of the date of receipt, the remaining available reimbursement cap for that State Fiscal Year shall be allocated to the qualifying applicants in proportion to the amount of qualifying reimbursement requested, with any excess carried over and eligible for a Certificate of Qualification in the next State Fiscal Year.

C. Program Repeal. Notwithstanding anything in subparagraph B above to the contrary, carryovers apply only to the State Fiscal Year beginning July 1, 2008, because this program is statutorily repealed effective January 31, 2009. *See* 36 M.R.S.A. § 2018(8).

D. Examples

Example 1: Cap Allocation for Single Applicant. Assume that Certificates of Qualification have been issued by the Authority in the 2007-2008 State Fiscal Year for an aggregate of \$475,000 in sales/use tax. On June 30, 2008, the next qualifying applicant requests a Certificate of Reimbursement for \$50,000 in sales/use tax. Under these facts, the applicant would be eligible for a Certificate of Reimbursement for \$25,000 in sales/use taxes in the 2007-2008 State Fiscal Year and \$25,000 in the 2008-2009 State Fiscal Year.

Example 2: Cap Allocation for Multiple Applicants. Assume that Certificates of Qualification have been issued by the Authority in the 2007-2008 State Fiscal Year for an aggregate \$475,000 in sales/use tax. On June 30, 2008, the next two qualifying applicants request Certificates of Qualification. Applicant #1's qualifying reimbursement request is for \$80,000 in Maine sales/use taxes and Applicant #2's qualifying reimbursement request is for \$20,000 in Maine sales/use taxes. Under these facts, the remaining \$25,000 of cap for the 2007-2008 State Fiscal Year would be allocated proportionately to both applicants, such that Applicant #1 would receive 80% of the remaining cap (\$20,000) and Applicant #2 would receive 20% (\$5,000). The remaining \$60,000 requested by Applicant #1 and the remaining \$15,000 requested by Applicant #2 would be eligible for a Certificate of Reimbursement in the 2008-2009 State Fiscal Year.

4. Contents of the Certificate of Qualification. The Certificate of Qualification issued by the Authority must identify:

- A. The items of qualifying Machinery and Equipment;
- B. The total Maine sales and use tax paid by the applicant with respect to that Machinery and Equipment; and
- C. The date of Sale for each qualifying item of Machinery and Equipment.

SECTION 4. APPLICATION FOR REIMBURSEMENT

1. Application Procedure. A person seeking reimbursement for Maine sales and use taxes under this rule must, following receipt of a Certificate of Qualification, file a form to be developed and provided by MRS at the address listed on the form on or before the Application Deadline. The applicant must include an original or certified copy of the Certificate of Qualification and attest that the Machinery and Equipment for which the certificate was issued

continues to be used Primarily in the development of an Advanced Communications Technology Infrastructure in a Qualifying ConnectME Zone. The applicant must sign the form under penalty of perjury. A request by an entity must be signed by a duly authorized officer of that entity. If the request is submitted by a representative of the applicant, like a lawyer or accountant, the representative must include a signed Form 2848-ME. For purposes of the Application Deadline, an application for reimbursement shall not be considered filed until it is deemed by MRS to be complete. Any application filed or deemed filed after the Application Deadline is null and void and is ineligible for reimbursement of taxes.

2. Obligation to Report Disqualifying Use. Any Person who receives reimbursement of Maine sales/use taxes under this rule and who fails to use the Machinery and Equipment for which the Certificate of Qualification was issued Primarily in the development of an Advanced Communications Technology Infrastructure in a Qualifying ConnectME Zone is affirmatively required to so notify MRS and repay to the State of Maine the tax reimbursement the Person received under this rule, plus interest from the date of disqualification, calculated at the rate set forth in 36 M.R.S.A. § 186.

3. MRS Audit Authority. MRS may audit any application filed under this rule. If MRS determines that the amount of the claimed reimbursement is incorrect, MRS shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that MRS concludes should not have been reimbursed, MRS may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration pursuant to 36 M.R.S.A. § 151 of the redetermination or assessment.

AUTHORITY: 36 M.R.S.A. §112, § 2018(7)

EFFECTIVE DATE: June 19, 2007